D.B.CIVIL SPECIAL APPEAL (WRIT) NO.653/2006
Rajasthan State Social Welfare Board v. State of Rajasthan & ors.
D.B.CIVIL SPECIAL APPEAL (WRIT) NO.684/2006
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Date of order : 13.10.2006

HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA
HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

Shri Girish Sankhla for the appellants
Shri Shyam S.Khatri for the respondents.

These appeals arise from identical orders of the learned Single Judge dated 4.9.2006 directing respondent nos. 1,2,4 and 5 to disburse salary to the writ petitioners. Respondent no.1 is Union of India, through Secretary, Women and Child Development Department, Ministry of Human Resources; respondent no.2 is Executive Director, Central Social Welfare Board; respondent no.4 is Chairperson, Rajasthan State Social Welfare Board, Jaipur and respondent no.5 is Administrator, Social Welfare Project, Barmer.

Writ petitions were filed seeking direction (a) to pay salary to

the petitioners from May, 2005, (b) not to terminate their services on account of close of social welfare projects and (c) absorb them in government departments. Order impugned in these appeals is interim in nature and writ petitions are still pending, therefore, a brief order for disposal of these appeals is being passed.

It appears that the social welfare projects for implementation of which the writ petitioners were engaged, were closed down pursuant to policy decision of the Government of India with effect from 1.4.2005. In one of the communications on the subject dated 1.6.2005, while reiterating the decision of the Government of India the Central Social Welfare Board informed the Chairperson of the Rajasthan State Social Welfare Board that State Government had been advised to make efforts to adjust the staff in other project and in vacancies arising due to creation of new posts in line with the expansion of I.C.D.S. Projects within the States. The Board was further informed that the Government of India had sanctioned 467 I.C.D.S. Projects in the States and Union Territories and expansion will soon take place and conveyed to the respective governments. The Board was accordingly requested to take up the matter with the State Government at once and also implement the decision for closure of the projects with effect from 1.4.2005 and Central Government/Board will not release any fund under the head in the financial year. It appears that despite communications from the Government of India/

Central Social Welfare Board, the writ petitioners were continued in employment upto 31.8.2005 and their services were terminated only on 1.9.2006. In other words, they remained in employment upto 31.8.2006. By the order impugned, the learned Single Judge directed the respondents to disburse salary to the petitioners for the period upto which they remained in employment.

Submission of the counsel for the appellants in challenge to the impugned order was that the fund for payment of salary is provided by the Central Board/State Government and the State Board has no fund/budget of its own and it is not possible to pay the emoluments from its funds. According to the counsel, the learned Single Judge should have apportioned the liability to the Central Government/Board and the State Government/Board while issuing direction for payment of salary. We find no substance in the submission of the counsel. The writ petitioners were engaged by the appellant Board and being its employees, salary has to be paid by the Board. It is another matter that the Board may seek reimbursement of the amount from the Central Board/State Government, as the case may be. In view of the admitted position that the State Board did not terminate services of the writ petitioners and continued them in employment upto 31.8.2006 we do not find any error in the order of the learned Single Judge. The petitioners being not the employees of the appellant Board, they are not required to claim salary from the

State Government. The order of the learned Single Judge does not warrant any interference by the Division Bench.

The appeal is dismissed.

The period for making payment fixed by the learned Single Judge is extended upto 10.11.2006.

(MOHAMMAD RAFIQ), J. (S.N.JHA), C.J.

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